

**COMMONWEALTH OF VIRGINIA  
BOARD OF CORRECTIONS  
LIAISON COMMITTEE**

Regular Meeting..... July 15, 2003  
Location .....6900 Atmore Drive; Richmond, Virginia  
Presiding .....Roy Cherry, Superintendent, Hampton Roads Regional Jail  
Present .....Clay Hester, Board of Corrections  
Robert W. Mitchell, Board of Corrections  
Sterling C. Proffitt, Acting Chairman, Board of Corrections  
Sheriff Thomas Jones, Charlotte County  
Chris Webb, Superintendent, Blue Ridge Regional Jail  
Jim Sisk, Manager Inmate Intake  
Sheriff Stuart Kitchen, Jr., Sussex County  
Kim Lipp, Architecture & Engineering, DOC  
Judge W. P. Lemmond, Jr. (Retired)  
Frederick D. Hildebrand, Administrator, Clarke/Frederick/Fauquier/Winchester Regional Jail  
Arnold Reynolds, Peumansend Creek Regional Jail  
Sheriff George McMillan, Roanoke City Jail  
Erin Barnhart, Roanoke City Jail  
Jan Dow, DOC  
Ron Elliott, Acting Chief of Operations, DOC  
Gene Johnson, Deputy Director, DOC  
Mark Davis, Attorney General Office  
Pat J. Waskey, Liaison Committee Secretary  
Absent .....John W. Marshall, Secretary of Public Safety  
Linda Curtis, Commonwealth Attorney, Hampton  
John Isom, Superintendent, Albemarle/Charlottesville Regional Jail  
James W. Matthews, Compensation Board  
William Lane, Circuit Court Clerk  
Sheriff Michael L. Wade, Henrico County  
Lt. Bill Gentry, Southampton County Jail  
Gary Bass, Chief of Operations, DOC  
Bert Jones, Architecture & Engineering, DOC  
Sheriff Vernie Francis, Southampton County Jail  
Wayne M. Cosby, Circuit Court Clerk, Southampton County  
Sheriff Ronald Crockett, Lancaster County Jail  
Sandra M. Thacker, Superintendent, Peumansend Creek Regional Jail  
Sheriff Donald Hunter, Prince George County  
Sheriff Samuel Shands, Dinwiddie County  
Alan Katz, Assistant Attorney General  
Ralph Dobbins, Superintendent, New River Valley Regional Jail  
John Jabe, Deputy Director, DOC  
Jim Camache, Assistant Director, DOC  
Sheriff Ronald T. Knight, Spotsylvania County  
Sheriff Charles E. Jett, Stafford County  
Helen Fahey, Chairman, Virginia Parole Board  
John Jones, Virginia Sheriff's Association

**10:00 a.m. Tuesday, July 15, 2003**

Board Room, 6900 Atmore Drive, Richmond, Virginia Department of Corrections

**Committee Chairman (Roy Cherry)**

**I. Approval Minutes**

Minutes from the last meeting (May 20, 2003) were motioned for approval, seconded and passed.

**II. Mr. Bert Jones (Kim Lipp)**

Mr. Jones was absent and Ms. Kim Lipp, Capital Planning and Financial Director presented an aerial photo of St. Bride's construction progress. The latest photo of construction site was taken on June 2003. The entire major building units are in and working inside the building are in progress as well as roofing. The biggest change since last meeting is another change order to extend the completion date from May to middle of June 2004 due to weather delays.

Mr. Webb stated how many beds again for this project.

Ms. Lipp stated the existing St. Brides are 592 beds, but Phase 1, the housing unit is to initially hold 400 beds but we are working with Gary Bass, Court & Legal, and resolve 192 beds deficiency. In Phase II additional 800 beds if approved. At this point, we do not have the funding or authorization for Phase II. Designed already roughly it will take two years for the construction. The security level is Level 2.

**III. Mr. Ron Elliott**

**1. Prisoner Population Report**

Mr. Elliott presented the Population Report to the Committee. See attached copy.

Out-of-Compliance figures will begin reporting a comparison of last quarter's figures with new quarter figures.

Chris Webb stated with out-of-compliance figures continuing going up. If something is not done, you are looking at over 3,000 this time next year. If it is going up roughly 100 a month, at this particularly point, there are no beds coming on line for the department.

Jim Sisk stated a meeting with the Projection personnel last month and looking at the possibility to say the department may need a new institution in the next six years. Now even if all the out-of-state inmates go back and those beds are funded we would have an additional 1200 beds. Even then, we would not take a big bite out of the total number.

Judge Lemmond acknowledged the importance of the committee and major reason why it was formed.

Jim Sisk stated if you have a problem inmate we are going to take every effort to bring that inmate into Department of Corrections and every effort to fill beds. The Secretary's office has a monthly meeting regarding bed issues and Gary Bass attends the meetings.

Mr. Webb stated that the Department continues to do an excellent job in bringing problem inmates into system. Where it is starting to add up is the Out-of-Compliance individual is increasing the cost to the locality and locality thinks the state is passing on the costs due to shortage of money.

Jim Sisk stated factors from everyone saying the crime rates are going down; maybe major crime rates (robbery, rape and murder) are going down perhaps. Property crime and drug offenses taking jail beds I do not seeing them going down especially the way the economy is today.

Mr. Elliott stated there are a number of factors that can increase jail populations such as increased sentences, age of concluded cases, the time it takes from arrest to adjudication of course dockets are filling up and taking some cases longer to be resolved. The arrest rates in some cases are down while the commitment rates are up. There is not always a correction between arrests and commitments. Arrests can go down while commitments and length of stay can go up.

Roy Cherry expressed the causes and potential solutions are difficult to talk about but I think this is an appropriate body for discussion. As Judge Lemmond pointed out, history of this body has a lot to do with out-of-compliance problem. It is very appropriate for this committee to continue to focus on the issue and but may not have an immediate solution. We need to continue to watch these figures closely each month.

Mr. Hester asked if Department of Corrections getting many compliant from sheriffs and superintendent.

Mr. Sisk noted Department of Corrections is not getting many personal complaints but we get professional complaints. One thing I wanted to be expressed to this committee is that Mr. Johnson and myself are here to provide any assistance to solve any problems.

Mr. Webb stated individual locality and boards, city councils and boards of supervisors are at the point where they are push the issue they may perhaps consider suits as they feel like the cost to the locality are so sufficient. One other thing is it is not the fact that you get the extra \$6 a day when they get out-of-compliance and that does not do much is medical costs. The legislature has to look at the ability to look at locality and be willing to help for deal with those cost. Technically, it would be the state costs. There use to be a program through the

Compensation Board that certain amount of monies were set aside which they called extraordinary medical expenses for state responsible. One of the budget cuts was looking for ways to save money but at least the locality could petition to get some of the monies. Mr. Webb gave an example of an individual who was state ready and was out-of-compliance. Some period of time and the department was good in taking in medical problems but the individual became so sick suddenly that it became a doctor-to-doctor issue. I could not call the department to take him when the attending physician from MCV must give approval for transported. It took the full month before the person came back to full health to be transported by ambulance to a particular facility.

Judge Lemmond suggested it be brought forth before the General Assembly because it is grossly unfair for locality to be burdened by these unpredictably high medical costs. How can you determine what medical care provider fees will be? A person who has no monies goes to hospital and they will be billed for large amounts of money and hospital knowing will not collect monies. Where as someone goes in hospital with HMO and Medicare the bill goes way up. The hospital will not be paid and know they cannot write the bill off. It would be interesting to know what criteria medical care provider's use in getting the amount of fees charged to jails for services rendered.

Mr. McMillan responded that in Roanoke the jail is initially charged and they expect you to pay that full bill and the doctor there will take extra precaution to keep that person a lot longer than the normal person so they won't get sued by individual because the government is writing the check.

Mr. Webb stated that some of jails are getting Anthem services third party administrator payment of claims. You pay so much per claim. By doing that you can get Anthem rate that will save you. Some of us negotiate rates with our local hospital that are actually below the Anthem rate more close to the Medicare rate.

Judge Lemmond suggested a bill sent to General Assembly to negotiate rate like Medicare rate to come up with something helpful to everyone.

Mr. Elliott noted that the General Assembly passed legislation this past session requiring an individual with a pre-existing conditions coming into your jail having insurance coverage to utilize that coverage while at the jail.

Mr. McMillan stated the reason why for bill was passed was because he individual was not paying the hospital. They would say it was the jail responsibility In Roanoke's jail; I do not pay for pre-existing conditions. The hospitals are writing them off taking federal fund and taking from private industries. That is why that law passes to give the to bill to private insurance company.

Mr. Elliott stated that if we had these levels of out-of-compliance ten to fifteen years ago, we would be hearing a lot more. At that period, we had allotted of 35 square foot jail cells while today there are more 70 square foot cells. Today with many new constructional jails around the state that has served to militate against many complaints. That is the big reason why we do not have more complaints.

## **2. Status of Jail Construction Projects**

Mr. Elliott presented updates to jail construction projects. See attached copy.

### **Jail Contract Bed Program**

Mr. Elliott presented Jail Contract Bed Work Release Program population figures. See attached copy.

Mr. Webb asked why the numbers are going down.

Mr. Sisk stated he did not know the reason why but it was trending down. He had processed 27 individual yesterday for work release. We are working to get these figures up. We have been putting a lot of emphasis on females who have substance abuse problems. We are looking at them closely; we do not want to send anyone who will cause trouble. We are looking at people who come into the reception centers and do a turn-a-round if they are available to meet the criteria and send them back out to work release.

Judge Lemmond asked if there was a temporary assignment or would they come back into system if they do not work out.

Jim Sisk stated if they are already in the institution the institution looks at them first and recommend them for work release. When individual comes into our system Central staff person looks at them more closely. They look to see if individual is a good inmate or make sure they are ok to go back into society. Carolyn Parker, approves for work release and she let's the institution, jails and inmate know when approved or else ready to the jails.

Judge Lemmond asked if there is a Transition Program that these individuals can attend.

Jim Sisk stated that the institution has two type of program they attend. The counselor and Gary Bass has brief the committee about the program offered TCT 30 days inmates additional 90 days work release. Gary Bass is doing everything he possibly can to intervene. We are doing everything we can. We are trying to embrace the problem and needs of jails.

Mr. Webb asked how many beds are fund for this physical year.

Mr. Elliott responded three hundred.

#### **IV. Other Business**

- 1. Good Time Failure to Pay Support (Mark Davis)**
- 2. Resolution for Local Facilities Unit (Roy Cherry)**
- 3. New Code of Virginia Section 53.1-131.3 (Jan Dow)**
- 4. Inspection Appeal 6VAC15-40-390 (George McMillan)**

##### **1. Good Time Failures to Pay Support (Mark Davis)**

Mr. Cherry introduced Mr. Mark Davis from the Attorney General office to explain the issue of “good time “ appeared to failure to pay support cases. The real concern was that guidance provided by Department of Corrections and another guidance being communicated by some other state officials to contrary to Department of Corrections. Mr. Davis is here to clarify this issue.

Mr. Davis expressed his view to the “good time” failure to pay support. Generally, there are two types of commitment on these non-support matters. People who are in the system being punish for their past acts for not paying support. Nevertheless, you may have some on civil contempt where the judges sentence the individual to jail and individual thinks about what his responsibilities are. Rather having send over their file conviction in order to punish him for past transgression, the judge send him to jail with the idea if he sits for a while he may come to his senses which case he “hold the key to his release”. When he agrees to make the support payments he is released from jail. No doubt, if the judge has sent this person to jail pursuant to a criminal conviction, he gets the same jail credit as somebody who was serving a sentence for any other criminal offense. However, for those who are there on civil commitment they are in effect, holding the “keys to their release”. Our thought expressed with Mr. Sisk that the individuals would not be, should not be, and could not be credited with any time. Civil commitment would be strictly open ended the law provides the maximum period of time anybody can sit in the jail even on a civil commitment for non-support. I am not sure exactly what would happen if the judge sending someone for a definite period time but then allows him, once he comes to his senses and pays support, to be released. I do not know if these are any situation maybe causing your problems. General rule is if he is there pursuant to criminal conviction he is being punished. He gets the credit, if he is there and it is the judge’s intent for him to sit there. However if he is to be released after paying then no credits are to be awarded that person. I suggested to Mr. Sisk that when



in doubt contact the judge. Normally you have a conviction order charging him for non-support and imposing a sentence of six months.

Judge Lemmond stated he was not aware of any crime impose for non-support. It is contempt of court. There are two kinds of contempt of court and two variety of each. There is criminal contempt and civil contempt, which contains direct and indirect. Contempt of court for six months is the maximum you can give them without a jury and with a jury the maximum is 12 months. Contempt of a court order, which has been ordered to the individual to pay and yet has not paid the contempt. Pay is to comply with the court order. Mostly all these are civil contempt and can be treated with no good time.

Mr. Davis explained to Judge Lemmond Law Code 20-61 specifically states, "anyone who fail to provide support shall be guilty of a misdemeanor and upon conviction punishment shall not exceed fine or confinement in jail 12 months. This is misdemeanor offense and charge upon conviction. I do extradition for governor's office and many jurisdictions consist of clients from foreign country failure to pay non-support issues.

Mr. Hester noted to his understanding some of the jails are giving good time for these civil commitment. I think there has been some misinformation given out.

Mr. Cherry stated the issue on misdemeanor is clear at least in my jurisdiction the term logy is frequently used a purge amount. The purge amount of \$2,000 has to be paid and the individual is release. I think that is clearing the contempt portion of this. In Sheriff McMillan cases, as example, it would not make much difference if he decided good time apply or not applies. The guidance has been furnished through Jim Sisk offices and good time does not apply in those cases. However, in my cases with regional jail, four jurisdictions, one of the sheriff has advised by other State officials do apply. I have four jurisdiction basically one is saying I want these guys out fifty percent good time and others are abiding by the guidance with the impression of the good time does not apply. The problem is really two voices from the State. One is saying in these contempt cases good time does apply apparently somebody else and I do not know the other source but they are saying good time may or could apply.

Mr. McMillan stated code section simply says disallowing good time is contrary to the law 56-129 for criminal offenses but it is civil cases there is not good time.

Mr. Webb expressed the judges in his jurisdiction made it abruptly clear and do not want people servicing time for civil contempt to get good time. We are not giving them good time.

Judge Lemmond stated good time earn is a way to purge and give them a chance to earn their way out earlier. They can earn anyway of civil contempt by complying to the court order either paying the money which give them the opportunity purge to pay.

Mr. Sisk stated the reason I asked Mr. Davis to attend meeting, the problem was judge committed this personal civil contempt there was no date so our point is from a common sense how do you compute good time when there is no end date. The inmate holds date in his hand, so if the jail cannot decide the date unless we assuming twelve months or six months we can not assume the date. We do not want to cut the judges decision but you would be second guessing the judge. The department stands on the information Mr. Davis has provided. We are still standing by it. If you do not have a date, you cannot compute the time.

Mr. McMillan stated you could not compute good time on civil commitment. Law does not allow you to give them good time on civil commitment.

Roy Cherry noted that the issue is hearing from DOC and Mr. Davis for the guidance that good time does not apply but we are hearing from other State officials that it does apply. How can we resolve the issue that we hear one voice or one answer?

Mr. Hester stated we must go to the Attorney General office.

Mr. Sisk mentioned that Sheriff Stuart Kitchen had volunteer to be signatory to write a letter asking but Mr. Davis noted we ask the right questions and we ask the Attorney General office.

Mr. Davis expressed that he has never heard the advice being told. I do not know or personally say it is in conflict with anything I told Mr. Sisk. It puts me at a disadvantage to speak to what the other person is saying or particularly what has been said.

Mr. Sisk stated from several persons saying there is nothing in the sheriff's model policy everything else I have been able to collect in writing. Nevertheless, I was not in the meeting with two of my staff personnel who heard it and they were worried about it. I do not know if we can ask for a written confirmation. I am under the impression we should do all our homework before we ask for anything official from the Attorney General office and to see it in writing.

Judge Lemmond stated it would be helpful if we did this and ask someone from Supreme Court for guidance. We have judicial conferences twice a year and it is statewide. They have different topics of discussion dealing with these kinds of problems. If you do not have a specific person to contact, the executive director if this committee wants to draft up a letter I will be glad to sign the letter.

Jim Sisk said that would be an excellent idea, I think the motivation or intention was to answer some of the bed problems. You may think they will get out quicker if you give them good time. That would cut the whole intention of the court. I think this is not the way to do it so, but Mr. Cherry I do not think it could have come from Department.



Mr. Davis stated when found in civil contempt failure to pay support is it a practice of the court to then give them a defendant period. The court wants them to be in jail in effect, sounding to me like a punishment for past conduct.

Mr. McMillan stated in every court order they receive the maximum, then usually the family members come up with monies.

Mr. Davis noted whether we call it criminal or civil, which we call it, civil willful violation, and sound like the intent in your cases is to impose a punishment.

Mr. McMillan stated a letter of informal opinion stating if criminal gets time and if civil no time.

Mr. Kitchen stated this whole thing came out of the Crime Commission office to give good time credit to everyone across the board. The whole gist if that meeting if you remember with the Crime Commission representative was to have a general policy that every jail has so every inmate in every jail is given the same good time credit. These conversations about good time yes good time no indefinite commitment civil commitment and that is where that question came from with meeting with Crime Commission and their attorney. I was wondering if maybe in getting the two of them in here would help, Stuart Tuck. I was wondering if that was an option to get them here. Getting a meeting together to make sure everybody is signing off the same sheet as far as good time is concerned.

Mr. Sisk stated if the committee desires I will try to contact them to attend.

Mr. Hester noted the Crime Commission could not dictate words; the Attorney General words are binding. The Crime Commission is only to come here to give their opinion.

Judge Lemmond noted it would be good to bring someone in from supreme court who particularly serves their purpose of referring to the Attorney General office and don't have a great deal of authority in binding the courts only guidance and mandatory.

Mr. Davis stated he has identified the problem area and it seem to me is that if the good judge finds someone in civil contempt in failure to comply with the court order, then imposes a defendant term of confinement with the intent to punish, I am not giving anyone an opinion on that type of situation, I would have to revisit.

Roy Cherry stated unless you paid the \$2,000 or paid you are no longer in contempt.

Mr. Davis stated even the judge put a maximum time in point on it- the guy holds the key to get out you don't want to cut the judges authority and go back to the judges and say you thought he was staying for six months if he didn't come up with the money sooner. You will have to go back to your judge and explain to him why you let him go. I do not have problem with that but the problem I do have is if it was definite two, three or six months for civil contempt and was not a cause or intent on the judges part that the guy get out sooner. Crime Commission may have problem with six months unless you purge yourself. I have a big problem if it is x number of months civil contempt you did not comply with my court order you need to stay in jail for completion.

Mr. Webb asked which Secretary does the Crime Commission report to and if that is where the information is coming from. Are they under a different Secretary?

Roy Cherry and committee members agreed that the Crime Commission is not under any Secretary.

Mr. Sisk told the committee that he would contact the Crime Commission to attend the next meeting and everyone agreed.

Mr. Sisk stated the department does not have a fight with this time because we are not going to compute this time. However, our concern was the jails record personnel were calling Department of Corrections saying Mark Davis gave us the advice and glad to get it. I would suggest that you get with your sheriff, your judge and commonwealth attorney to determine what you are going to do.

Mr. Cherry noted that apparently this has been a saddle question since 1999 when the Attorney General offered this advice.

Mr. Sisk stated it has always come up again but it has always been the same answer. It has worked for everybody.

Mr. Hester stated that Mr. Cherry has somewhere from 25 to 30 judges and if everyone goes to each judge they will get a different answer. Many judge do not look at it same way.

Mr. Sisk noted that whatever we do we would like to be consistent about it. I agree that everybody should be doing the same thing for liability purpose, litigation purpose if one sheriff gives credit for this type of charge everyone will be looking at it. I think from the concern of Department of Corrections the advice of Attorney General is what we are standing by because if there is no date to compute from you cannot compute good time.

Mr. Roy Cherry stated if this meets with everyone approval we will get Mr. Sisk to invite a representative from Crime Commission to attend our next meeting.

## **2. Resolution of Local Facilities (Roy Cherry)**

Mr. Cherry presented to Mr. Johnson a resolution from the Liaison Committee, which the staff has drafted, which complemented the Local Facilities Unit and services they provide to the local jails and recommend the continuation of that unit.

Mr. Webb stated I move that this committee adopt this resolution and Mr. Mitchell second the motion.

Mr. Hester asked Mr. Johnson if he was in favor of this.

Mr. Johnson stated we are going to keep this unit but we are going to reorganize. However, I have no problem with the resolution.

Mr. Cherry stated the Liaison Committee appreciates the work the Local Facilities Unit does and the way it supports local jails.

Mr. Johnson expressed the importance of the unit and his discussion with Mr. Elliott of trying to lighten-up on the Jail Inspectors. The Code of Virginia has us locked in but maybe the Board of Corrections might take some action to save some our of people some time with jails. Local Facilities lost one Inspector during the Budget cut.

The Liaison Committee approved the motion for the resolution.

## **3. New Code of Virginia Section 53.1-131.3 (Jan Dow)**

Mr. Cherry introduced Jan Dow to discuss the new legislation charging inmates \$1 a day for their care.

Jan Dow expressed the new Code of Virginia was amended from the General Assembly July 1, 2003 for cost of inmates keep \$1 a day. The legislation states "Any sheriff or jail superintendent may establish a program to charge inmates a reasonable fee not to exceed a dollar a day for the cost associated in prisoners keep. The Board shall develop a model plan and operate regulations for such a program as you shall provide assistance if requested to the sheriff or jail superintendent in the implementation of such a program. Such funds shall be retained in the locality where funds were collected and shall be used for general jail purposes". Last week I sent a memorandum to Mr. Proffitt asking basically the Board needs to develop some sort of regulations and I would be more than happy to provide support that is required in order for that to happen. One of the

suggestions I made at that, time is perhaps a discussion in this meeting and carry over to the Correctional Services Committee and the Board to determine at this particular point where they need to go. Some of the questions I had and I know some of you and locality will have questions regarding this particular legislation. When talking not exceeding a dollar, does the Board want to set particular amount less than that or up to one dollar or allow locality do that themselves. Which inmates are we talking about, is this going to include pre-trial inmates, include state committed inmate, what population are you talking about. What about indigent inmates and what type of arrange made to hold and monies coming into their account if so what arrangement for those needs of the inmates may have such hygiene's, etc. Is the Board to set any standard for what general jail purpose mean. Those were some of the questions I had and any kind of discussion of those types of questions since you deal with the jail where do we want to go.

Mr. Webb noted in the discussion last week in the Virginia Association of Regional Jail meeting held on this topic different superintendent s are getting pressure from their Boards. This legislation sounds good and there is a push to get this started and put in place. It is going to be a significant source of revenue and I think we talk about it we have question it going to be sufficient source of revenue. Other aspect is until the model plan regulations come forth they did not want to implement the plan. Later we might be facing a rebate situation and we might be doing things that were not authorized by the plan. Even if you are talking about a dollar a day you are talking about each individual for total \$30 per month and your people who are in jail for a short period. Do they have to be there a full day to get dollar? Do you keep a phantom account? I think everyone understand that it sound appealing politically say that people that are locked up kick-in monies toward the cost of confinement but I am wondering from an administrative aspect if existing amount of staff at our facility is sufficient enough to keep-up. I think it is something we need to have the plan and regulation in place and take to the Board to get direction as to where to go. I am certain the methodology the Board may want to use and develop wants to include representative from local jails and across the state to talk about the detail.

Mr. Hester noted that the state is not going to easy to implement it and there is going to be a lot of questions and it take a while to get a regulation through the process. It is going to take some time to get this regulation in place and people need wait . Are you going to take money every day or on monthly basis? In addition, it may cut or reduce canteen purchases.

Mr. Webb stated I worry that more organized inmate groups will extort money from other inmates. Inmates are very entrepreneurial.

Judge Lemmond asks what is the purpose of this. Is it to get more money? About 80% inmates do not have money. We need to do a realty check to see if there are any of the other states getting any money.

Mr. Webb noted he too was checking on some legislation that was passed in July 2002 allowed locality to collect \$25 processing fee coming into the jail. Only required is a city or county adopt an ordinance in that effect then money was collected through the circuit court clerks. I would ask the question to everyone in committee that their was not sufficient amount money found it way back to local with implementation of that legislation was amended this July 1, 2003 allow regional jails if they were the ones processing and also collect that fee. Frankly, I do not want to be involved in this unless there is a sufficient amount of money collected.

Mr. Hester stated being a Board member we are going to have to come up with rules and regulations regarding this matter. Also, as one member again, I would suggest that we form a committee made up of regional, sheriff, and jails personnel to come up policy everyone can live by. I hope not everyone will try to implement this until we have a policy. It will take us some time to do it. We have three jails already implementing it.

Mr. Mitchell asked did Sheriff Association have this bill introduced.

Mr. McMillan stated I think we supported this bill and I like the idea. One it is politically correct and Judge I have experienced that 80% those do not have monies but 700 inmates I get \$23,000 week in to jail for those inmates and those family find the money to give to the inmates. As you say as far as collection, it is a problem but if you limit canteen sales then you reduce that problem considerable. Because they did it for medical, we watched and canteen sales would be reduced. you charge them and they do not have the money you collect and you go after them civility for not paying fines cost when they get out of jail. We will get some monies and let it be up to Sheriff how it is to be spent and not the locality as long as it goes into his budget how to spend it at his jail. I have not instituted it because the way I read the law the Board has to develop regulations and I am not going to do so until there are regulations.

Judge Lemmond stated is this court cost paid directly sheriff as opposing to coming in to other court cost.

Mr. Hester noted Sheriff collects this money out of the inmates account. This money comes out their canteen account. I talked with Ms. Dow this morning and as you know it take a long time to process the administrative act, so Ms. Dow suggested that a temporary emergency regulation be filed. It does not have to go through legislation and it is actually design for this purpose. Legislation has been pass and you need to put something in play quickly while you know what you are going to do. It is a temporary regulation.

Mr. Roy Cherry asked would it be helpful if we made a recommendation to the Board for the emergency regulation to be implemented.

Mr. Hester noted I feel something needs to be done and being a board member, I feel this should be done.

Mr. Mitchell being a board member also agreed that something should be done.

Mr. Cherry asked Mr. Sterling if this would be a good recommendation.

Mr. Sterling stated I think it is improper to implement this until the Board develops a model plan. It would be nice if the legislation says no jail implement, this program until but it does not say this. I know in my opinion some of the jails want to implement this but from the Board who want to herald this. I think the Board needs to act quickly if a jail wants to collect the money that is their decision. Ms Dow getting the emergency resolution procedures we can get all the finalization done.

Mr. Cherry asked would anyone like to make a motion to recommend the Board adopt an emergency resolution to deal with this matter.

The motion was made, approved, seconded and passed.

#### **4. Inspection Appeal (George McMillan, Roanoke City Jail)**

Mr. McMillan stated his jail underwent under a recent inspection and it may concern other jails resulting in being wrote-up for out of compliance with one standard. As I understand from the Inspector the new updated standards went into effect this year and the interruption of the standard says, "All correctional staff will

be trained in basic First Aid and CPR. For years, all our deputies went to in-training school and trained in CPR and basic First Aid every other year. CPR cards only last for one year. The DOC is taking a stance that the intent of the standard is that every officer has a current certification card. Which means every officer must go to CPR training every year, which means overtime cost, etc. It only says that have to be train in it. You go through basic training you get CPR and then every other year you get CPR certified. You have been trained but you do not have a certification going in. However, half of my people all have a certification card and other half go back in services. We thought we were in compliance and we met ACA standards back in the spring. Nevertheless, the state has gone beyond their interpretation of that standard that requires us to have all CPR



certified correctional staff for the year. I have sent a request into Gene Johnson for the Board of Corrections to visit that interpretation and hopefully they will interpret it by the way I just asked it would be trained every other year. What I ask this Board to do is to make a motion that we ask the Board of Corrections to make that interpretation as long as they have been trained that it does not necessarily mean they have to carry a certification that we are getting CPR training every year, to establish that intent. Now according to the Jail Inspector he said it would help everyone and I am assure he has talked with you about this situation.

Mr. Elliott noted the Inspector did discuss the matter. First, the standards were revised and they went out for everyone to review. We did not get anyone complaining about this standard. What that standard does versus the old standard is that it is some specifically requires CPR training for all correctional officers be annual. Everybody must be trained competence and only way we can measure competent is find out if the person has been certified. That is the interpretation.

Mr. McMillan expressed if they passed certification going up every other year, you think they would be certified.

Judge Lemmond noted to be considered competent is to be certified. I think you are right in a practical standpoint especially when someone has performed. The point is if the test for competence is being certified and you don't have that certification you are wide open for a law suit by somebody for not being in compliance with rule or regulations that requires competences and that would be looked at fully. The standard says competent and trained.

Mr. Elliott noted ACA requires in their audits that your staff must be CPR certified.

Mr. McMillan disagreed that ACA one correctional officer on duty must be CPR certified according to ACA standard.

Mr. Elliott stated this was one of the components that were changed. Noting one certified officer on one shift but with the revision changed that includes "everybody on a shift".

Mr. McMillan stated that everybody working in the jail must be CPR trained which manual trained and competent. You are mandating CPR training annual for all employees, which is 4-hour class for 270 persons at Roanoke City, in that case they are going to have to be trained every year just like we do for firearm. The overtime pay is going to go out the roof and no one pays overtime.

Mr. Elliott stated he understood his issue and the Correctional Services Committee would discuss this issue and your appeal. You are welcome to attend this meeting this afternoon and to voice your concerns about judgment by the inspector.

Judge Lemmond asked who establish the medical certification. Is it the American Medical Society?

Mr. McMillan noted the American Red Cross, and you cannot do it on-line but you must have instructor, and their materials to do it and pay cost every year for every person.

Mr. Reynolds stated this does not require the Red Cross certification as I read this, for example if you go to American Red Cross or some other body that provide certification, and you went through their training and you had their card, you would meet the intent of this. We should not assume that the Red Cross is the only body to meet this requirement in order to get this. You may find other competent and recognized agencies that issues training and the certification may be indeed being good for two years.

Mr. McMillan stated only two people are recognized for the CPR training.

Mr. Hester asked do you still send someone to Red Cross to get instructor training and get in-house training.

Mr. McMillan stated yes but you still have to use their materials and make four-hours available for each person for the training. When you are under-staff and every year basic First Aid is good for three years then CPR is good for one year. Reason I question the standard is every other year employees are trained and I have gotten half my staff trained in CPR.

Judge Lemmond stated not at the acceptable level of competence as measured by certification. That is the standard measure for competence.

Mr. Hester stated that the standard is writing in way which allows only fifty percentage be given time which should be sufficient.

Mr. Elliott asked Mr. Reynolds is this something you have to deal with?

Mr. Reynolds stated what we do is we go ahead and set-up every year, first two months and train everyone. Each month we have orientation training and we bring in new employees which part of the 40-hour training includes CPR training. We can bring the employee in that we have missed. It is a problem with respect to overtime issues and scheduling. We have persons getting off midnight shift and doing training in the morning, which we try to get everyone trained.

Mr. Elliott noted that before these standards were adopted apparently you were doing this anyway.

Mr. Reynolds stated we are doing that anyway but I understand when an auditor came in and this allow one person on shift be covered.

Mr. McMillan stated it was a shame to meet National Standard and cannot meet State standard, which should be minimum standard.

Mr. Elliott asked Mr. Hildebrand if his jail just went through ACA certification audit and what was their requirement in respect to CPR training.

Mr. Hildebrand stated ACA requires 40 hours training per year and includes CPR Training. We have our own instructors and equipment within our jail to have this training. As to overtime, we have never done it that way because it is part of our training. You are required to have 40-hours training for ACA every year.

Mr. McMillan stated what you are doing is in-service for every year for your employee. ACA requires, which we meet, 40 hours live training. That is 15 minutes a day and you cannot do CPR in 15 minutes per day. We do specialize training where you send two hostage negotiators down at the State Capital you got that 40 hours per year so that way that prevents us from in paying a lot of overtime and taking people every year for in-service school because we are shortanded and having 700 inmates to be watched by 30 deputies. We cannot afford letting them off. It shorts the men in watching 700 inmates everyday. Then take someone else out to train for CPR.

Mr. Elliott noted this would have to be further discussed in the Correctional Service Committee where your appeal will be heard.

Mr. Roy Cherry noted no other business the meeting was adjourned.

**V. Future Meeting**

The next meeting will be September 16, 2003 unless otherwise notified.

**VI. Adjournment**

By *Motion* duly made by Chairman Roy Cherry and seconded by several members present, the meeting adjourned.

***Attachment***  
**LIAISON COMMITTEE POPULATION REPORT**

July 15, 2003

<b><i>DOC Prisoner Population:</i></b>		<b>As of</b>	<b>Total</b>	
Prison Population		7/11/03	30,789 (Contract Prisoners 1,085)	
Capacity		7/01/03	30,931	
Felons Received		7/11/03	3,677	Av. 131 Weekly
Felons Released (GTRD)		7/11/03	2,306	Av. 82 Weekly
Felons Paroled		7/11/03	779	Av. 28 Weekly
Total Released		7/11/03	3,085	Av. 110 Weekly

  

<b><i>Local Jail Population:</i></b>				
Jail Population		6/17/03	24,237	(1,597 Federal Prisoners)
Capacity		7/01/03	16,919	
Pop. In Excess of Operational Capacity		6/17/03	7,318	
Felons with More Than 1 Year to Serve		6/17/03	3,962	Committed on or after 1/1/95
Felons Available for Pickup:		7/04/03	3,819	
Felons Out of Compliance		7/04/03	2,170	
Felons Released (GTRD)		7/11/03	1,094	Av. 39 Weekly
Felons Paroled		7/11/03	633	Av. 23 Weekly
Total Released		5/16/03	1,727	Av. 62 Weekly

**Jail Construction/Expansion:** See Attached Listing of Jail Projects.

**Contract Beds:** See Attached Jail Contract Bed Program Report.

## **Status of Jail Construction Projects Planned or Under Construction**

### **Board Approved Projects for 1996 General Assembly Funding**

#### **1. Middle River (Augusta-Staunton-Waynesboro) Regional Jail**

9/95 Board approved reimbursement of \$4,023,784 (50% of \$8,047,568) for regional jail project of 100 beds sited in Verona. Project halted due to reduced population. C-BCP and Planning Study updated and project revised. Localities forming authority and project redesign to single facility. Architect to study single construction site and provide cost estimate. Planning Study and revised C-BCP submitted 11/00.

Amended C-BCP approved at 2/01 Board meeting justifies construction of new 396-bed jail to replace current Augusta County Jail. Middle River Regional Jail Authority created 7/01. BOC approved 396-bed jail at project cost of \$39,309,103 with 50% state reimbursement of \$19,654,551 on 10/17/01. Design development was to begin 3/02 but delayed for study of possible use of Staunton Correctional Center. Localities voted not to pursue Staunton Correctional Center as jail option and design contracts signed 8/02 on new jail. Construction to begin Winter 03 with estimated completion 12/05. Phase II and final VE study completed 2/03. Advance site-work package is out, as of 6/27/03.

### **Moratorium Exempted Projects for 2002 General Assembly**

#### **1. Loudoun County Jail**

1998 Appropriations Act included language to exempt Loudoun plans for new jail construction from moratorium. C-BCP unofficially reviewed in 1997 per Act language and required revisions were sent locality 5/20/97. Plan revised and resubmitted 10/9/98. C-BCP revisions comments sent locality 12/10/98. Revised C-BCP submitted 9/99 requires revision with comments to locality 11/5/99. Planning Study submitted 11/2/98 calls for 220 beds with state reimbursement on 110 beds.

Planning study estimates indicate project cost of over \$16,000,000 to be completed mid-2001. Budget amendment before 2000 General Assembly would authorize additional bed construction. Revised C-BCP submitted 6/00 and reviewed for Standards compliance in 7/00. Plan is in compliance with Board Standards and recommends the need for construction of 196-bed jail. C-BCP approved 10/00. Planning Study approved by 7/01 Board for project costs of \$19,177,896 and state reimbursement of 25% at \$4,794,474. Construction bids in at end of 6/03 with low bid of \$21 million. Construction contract to be awarded 7/03 with estimated project completion 12/05.

#### **2. Virginia Beach City Jail**

Moratorium exemption provided in 2000 Appropriations Act. City planning 500-bed addition. C-BCP and Planning Study submitted 3/01. C-BCP revision comments to locality 5/1/01. Value Engineering study completed 5/01. Results of C-BCP and Planning Study review and request for state funding presented at 12/01 Board meeting. Reimbursement amount of \$11,302,695 (25%) approved on project costs of \$45,210,779 for 312-bed addition and renovations. Project contractor selected. First floor and section of second floor slab poured as of 6/03. ECD of new addition 10/04 with renovations ECD of 10/05.

3. Southwest Virginia Regional Jail (Buchanan, Dickenson, Lee, Scott, Wise, Smyth and Washington Counties, City of Norton)

Moratorium exemption provided by 2000 General Assembly. C-BCP submitted 12/29/00 underwent review and required revision. Comments to locality 1/29/01. C-BCP revised and resubmitted 3/01. Board approved C-BCP 4/01 with Planning Study approved 8/01. Estimated project costs approved at \$74,446,751 with 50% state reimbursement of \$37,223,376 for 780 beds, 3-facility jail system sited in Haysi, Duffield, and Abingdon areas.

Construction site work begun 9/02. Bid package to be ready 5/03 with estimated project completion date of 3/05. Lee Noble hired as Superintendent and ground-breaking ceremony occurred on 5/22/03.

4. Chesterfield County Jail

County submitted C-BCP on jail replacement under moratorium exemption language regarding inability to comply with Board Standards and bed for bed capacity replacement. Planning Study submitted 3/1/01. Revision comments on C-BCP sent locality 3/8/01. C-BCP and Planning Study approved by 10/01 Board for construction of new 154-bed jail at current site. Project costs approved at \$24,006,703 with 25% state reimbursement of \$6,001,676. Design development begun 9/02. Construction bids let 6/03 and received 7/1/03. Construction expected to begin 8/03 with project completion expected 8/05. Advance site-work underway.

**Moratorium Exempted Projects Pending Board Approval**

1. Eastern Shore Regional Jail (Northampton and Accomac Counties)

Northampton County C-BCP submitted 11/00 on new jail under exemption language for bed for bed replacement construction. Plan reviewed and revision required with comments sent locality. C-BCP under revision and Accomac County involved in regional jail discussions. Revised C-BCP including Accomac County as a regional participant received 10/28/02. Review of C-BCP indicates further revision to comply with Board Standards necessary. Review comments sent locality 2/03 and returned on 6/10/03. Revised C-BCP and Planning Study currently under review with submission to Board for approval expected in 9/03.

2. Botetourt and Craig County Regional Jail

Counties exempted from moratorium via 2002 Appropriations Act and will submit, 3/03 request for 50% state construction reimbursement as a regional jail project. Counties indicate that they have operated as a regional jail prior to June 30, 1982 as required by Code section 53.1-82. Board approved localities request for regional jail status at 7/02 meeting based upon request documentation. C-BCP received 10/02 with revision comments sent to locality 3/03 and returned on 6/10/03. Revised C-BCP and Planning Study under review with submission to Board for approval expected in 9/03.



3. Prince William-Manassas Adult Detention Center

Localities exempted from state funding moratorium in 2001 based upon a signed A&E contract prior to 3/1/96. Project previously approved by Board in 1994 but rescinded due to disagreement between localities. Board indicated that project need was justified and it could be approved if both localities reached mutual agreement. C-BCP has been submitted and reviewed for compliance with Board Standards. Revision comments forwarded to locality 10/02 and returned on 6/23/03. Revised C-BCP and Planning Study under review with submission to Board for approval expected in 9/03.

The locality will submit a standards modification request for approval of 50 bed pods versus 24 bed maximum security pods as allowed in current Board Standards.

**JCB WORK RELEASE –July 7 – July 11, 2003**

<b><i>PARTICIPATING JAIL</i></b>	<b><i>JCBWR BEDS CONTRACTED</i></b>	<b><i>JCBWR BEDS FILLED</i></b>
1 Albemarle-Charlottesville Regional	20	5
2 Arlington County Detention Center	5	0
3 BRRJ - Campbell	2	0
4 BRRJ - Halifax	3	0
5 BRRJ - Lynchburg	38	19
6 BRRJ - Moneta	32	3
7 Central Virginia Regional Jail	8	2
8 Charlotte County Jail	30	22
9 Chesapeake City Jail	20	6
10 Clark-Frederick-Winchester Reg. Jail	12	3
11 Danville City Jail Farm	50	0
12 Fairfax County Pre-Release	20	6
13 Franklin County Jail	4	0
14 Hampton Correctional Facility	60	14
15 Loudoun County Jail	14	10
16 Middle Peninsula Regional Jail	50	13
17 New River Valley Regional Jail	50	0
18 Norfolk City Jail	35	0
19 Northern Neck Regional Jail	12	0
20 Pamunkey Regional Jail	1	1
21 Piedmont Regional Jail	20	1
22 Portsmouth City Jail	15	5
23 Prince William Adult Detention Ctr.	15	3
24 Rappahannock Regional Jail	30	3
25 Riverside Regional Jail	60	1
26 Rockbridge Regional Jail	15	1
27 Scott County Jail	4	0
28 Southampton County Jail Farm	25	4
29 Southside Regional	47	12
30 Virginia Peninsula Regional Jail	50	1
31 Warren County Jail	10	8
32 Western Tidewater Regional Jail	50	13
33 Wise County Jail	15	0
	<b>822</b>	<b>156</b>

Pending transfer to W.R. 22

Total Assigned to W.R. **178**